

(g) *Equipment operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(h) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(2) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit.

[76 FR 52439, Aug. 22, 2011]

§ 52.1629 Visibility protection.

The portion of the State Implementation Plan revision received on September 17, 2007, from the State of New Mexico for the purpose of addressing the visibility requirements of Clean Air Act section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and the 1997 fine particulate matter National Ambient Air Quality Standards is disapproved.

[76 FR 52440, Aug. 22, 2011]

§§ 52.1630–52.1633 [Reserved]

§ 52.1634 Significant deterioration of air quality.

(a) The plan submitted by the Governor of New Mexico on February 21, 1984 (as adopted by the New Mexico Environmental Improvement Board (NMEIB) on January 13, 1984), August 19, 1988 (as revised and adopted by the

NMEIB on July 8, 1988), and July 16, 1990 (as revised and adopted by the NMEIB on March 9, 1990), Air Quality Control Regulation 707—Permits, Prevention of Significant Deterioration (PSD) and its Supplemental document, is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality. Additionally, on November 2, 1988, EPA approved New Mexico's stack height regulation into the SIP (53 FR 44191), thereby satisfying the conditions of EPA's conditional approval of the State's PSD program on February 27, 1987 (52 FR 5964). Therefore, the conditional approval was converted to a full approval on July 15, 2011.

(b) The requirements of section 160 through 165 of the Clean Air Act are not met for federally designated Indian lands. Therefore, the provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

(c) The plan submitted by the Governor in paragraph (a) of this section for Prevention of Significant Deterioration is not applicable to Bernalillo County. Therefore, the following plan described below is applicable to sources located within the boundaries of Bernalillo County (including the City of Albuquerque). This plan, submitted by the Governor of New Mexico on April 14, 1989, August 7, 1989, May 1, 1990, and May 17, 1993, and respectively adopted on March 8, 1989, July 12, 1989, April 11, 1990, and February 10, 1993, by the Albuquerque/Bernalillo County Air Quality Control Board, containing Regulation 29—Prevention of Significant Deterioration and its April 11, 1990, Supplemental document, is approved as meeting the requirements of part C of the Clean Air Act for the prevention of significant deterioration of air quality.

[58 FR 67333, Dec. 21, 1993, as amended at 68 FR 11323, Mar. 10, 2003; 68 FR 74490, Dec. 24, 2003; 75 FR 82558, Dec. 30, 2010; 76 FR 41705, July 15, 2011; 76 FR 43153, July 20, 2011; 76 FR 81838, Dec. 29, 2011]

§ 52.1635 Rules and regulations.

(a) *Part D disapproval.* The requirements of § 51.281 of this chapter are not